

AREA PLAN COMMISSION OF TIPPECANOE COUNTY MINUTES OF A PUBLIC HEARING

DATE March 19, 2003
TIME 7:00 P.M.
PLACE County Office Building
20 N. 3RD Street
Lafayette, IN 47901

MEMBERS PRESENT

Jack Rhoda
Jan Mills
KD Benson
Ashley Stevenson
Gary Schroeder
Steve Schreckengast
David Williams
Kathy Vernon
John Knochel
James Miller
Mark Hermodson
Stuart Boehning
Karl Rutherford
Laura Peterson

MEMBERS ABSENT

Jeff Kessler

STAFF PRESENT

Sallie Fahey
Margy Deverall
John Burns
Joanna Grama, Atty
Michelle D'Andrea

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 19th day of March 2003, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Jack Rhoda called the meeting to order.

I. BRIEFING SESSION

Sallie Fahey informed the Commission that James Hawley was on vacation and would be out of the office until next week. She introduced Margy Deverall as the new Assistant Director for Comprehensive Planning. She stated that Margy Deverall would be working with the land use work, neighborhood land use plans, neighborhood zoning, planned developments and the annual report.

She informed the Commission that **Z-2110—AREA IV DEVELOPMENT, INC. (I3 TO R1U)** as been amended from 26 to 27 lots and a revised sketch plan would be passed out. She stated that **Z-2111—R. GREGG SUTTER (A TO RE) (Gray Mare South Subdivision)** has been continued to April 16, 2003 at the petitioner's request. She said that **Z-2113 WILLIAM J. ABBOTT (I3 TO I2)** would be have to be continued to the April 16, 2003 meeting because the Lafayette Leader did not publish the legal advertisement, even though it was properly submitted. She explained that **Z-2115 G& L DEVELOPMENT C/O MARIANNE MITTEN OWEN (OR TO R1)** would be continued to the April 16, 2003 meeting due to a sign posting deficiency.

II. APPROVAL OF MINUTES

Karl Rutherford moved to approve the minutes of the February 19, 2003 public hearing. Dave Williams seconded and the motion carried by voice vote.

III. NEW BUSINESS

Karl Rutherford moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. David Williams seconded and the motion carried by voice vote.

A. REVISED CONTRACT FOR LEGAL SERVICES:

Continuing the discussion tabled during the February meeting.

Karl Rutherford moved to discuss and vote on the two proposals for legal services. David Williams seconded the motion.

Jack Rhoda mentioned that resumes from two firms have been distributed to the Commissioners for their review.

Mark Hermodson stated that after reviewing the proposal from both of the firms, there are a number of compelling reasons why the Commission must engage Firm #1. He recapped the following reasons:

- The depth of experience and personnel offered as the whole firm, with one principal. All members of the firm are available and it is a large firm. Firm #2 only offers one person with some experience and one back up without land use experience.
- The experience of Firm #1 is impressive. They have over 30 years of government and planning practice law. They have been absolutely scrupulous about avoiding conflicts of interest, and that is promised in the proposal. Firm #2 has one person with some experience in planning law, but not regular practice in recent years.
- Firm #1 has been timely and responsive in its duties to the various government agencies that it has represented. Its research has been carefully done and explained in terms that non-specialists can understand. When Firm #1 is asked to find a way, they do their best within the legal bounds, regardless of how the Commission or Board would like it to go.
- The cost of Firm #1 is way below the cost of Firm #2. The County is not flush with funds at this time. The proposal demonstrates the commitment Firm #1 has to government planning practice and cannot be dismissed. If the more expensive firm were elected, a precedent of a higher baseline would be set forever.
- This is a time of major transition for the staff. This is not a time to experiment with a law firm whose performance is not certain. Firm #1 has demonstrated its work ethic and unless a specific deficiency can be identified, there cannot be serious consideration of any other firm.

Karl Rutherford pointed out that there has never been a question of the quality of work that Firm #1 does. He informed the Commission that the principal provider in Firm #2 was an employee of Firm #1 for 20 years and frequently provided the backup for the Area Plan Commission, Ordinance and Board of Zoning Appeals meetings. He stated that his main concern was a lack of continuity that they used to have. He pointed out that for the last five years there have been six different attorneys that have represented the APC at the meetings. He said that they need a continuity that they have not had, and he was in favor of Firm #2

Jan Mills referenced Karl Rutherford's comment of many different attorneys in the last five years. She pointed out that there is no way to avoid that. She said that there are always going to be conflicts for specific days or meeting times, but Firm #1 has the depth of experience so that the Commission will be well served regardless of who the back up is. She stated that Firm #1 was the recommendation of the staff and the Budget and Personnel Committee. She said that the staff was very pleased with the quality of work that Firm #1 has provided.

The Commission voted by ballot 5 for Firm #1 and 9 for Firm #2 to employ Firm #2.

Firm 1

Laura Peterson
Jan Mills
Mark Hermodson
James Miller
Jack Rhoda

Firm 2

Steve Schreckengast
Karl Rutherford
Gary Schroeder
David Williams
Ashley Stevenson
Stuart Boehning
Kathy Vernon
John Knochel
KD Benson

B. PRIMARY APPROVAL EXTENSION

BENCYN INDUSTRIAL SUBDIVISION (S-2661) The developer is requesting a 2-year extension of the conditional primary approval for a 12-lot industrial subdivision on 28.19 acres, located on the north side of CR 350 S, at the CR 460 E intersection, in Wea 12 (NE) 22-4.

Karl Rutherford moved to hear and approve the above-described request. David Williams seconded the motion.

Sallie Fahey read the staff report with recommendation of primary approval contingent on any applicable conditions of the original primary approval:

The Commission voted by ballot 13 yes – 0 no to approve the 2-year extension of the conditional primary approval of **BENCYN INDUSTRIAL SUBDIVISION (S-2661)**.

C. FINAL DETAILED PLANS

RESOLUTION PD 03-4: WEST LAFAYETTE PUBLIC LIBRARY PLANNED DEVELOPMENT, PHASE 1 (Z-2109) Final Detailed Plans for the first phase consisting of the new library building and associated public improvements, located along the north side of Columbia Street, between Northwestern and Chauncey Avenues, in West Lafayette, Wabash 19 (NE) 23-4.

Karl Rutherford moved to hear and approve the above-described request. David Williams seconded the motion.

Sallie Fahey read the staff report with recommendation of approval.

Joseph T. Bumbleburg, PO Box 1534, Lafayette, IN, stated that he represents the West Lafayette Public Library Board and the president, executive director, engineer and the technical advisors are present to answer questions. He mentioned that all of the ordinance required paperwork including the final detail plans, construction plans and bonds, have all been submitted. He asked for approval. He mentioned that this is how planned developments were meant to be.

The Commission voted by ballot 13 yes – 0 no to approve **RESOLUTION PD 03-4: WEST LAFAYETTE PUBLIC LIBRARY PLANNED DEVELOPMENT, PHASE 1 (Z-2109)**.

IV. PUBLIC HEARING

Jack Rhoda read the meeting procedures.

Karl Rutherford moved to continue **Z-2111—R. GREGG SUTTER (A TO RE) (Gray Mare South Subdivision); Z-2113 WILLIAM J. ABBOTT (I3 TO I2) AND Z-2115 G& L DEVELOPMENT C/O MARIANNE MITTEN OWEN (OR TO R1)** to April 16, 2003 meeting. David Williams seconded and the motion carried by voice vote.

A. REZONING ACTIVITIES

1. **Z-2110—AREA IV DEVELOPMENT, INC. (I3 TO R1U):** Petitioner is requesting rezoning of two tracts totaling 4.85 acres in order to develop a 26 lot subdivision located between Weaver and Smith Streets on the northwest side of Washington Street, Lafayette, Fairfield 29 (SW) 23-4. CONTINUED FROM THE FEBRUARY MEETING DUE TO AN ERROR IN THE LEGAL DESCRIPTION.

Karl Rutherford moved to hear and approve the above-described requests. David Williams seconded the motion.

Sallie Fahey presented a revised sketch to the Commission. She read the staff report with recommendation of approval. She presented slides of the zoning map; aerial photo and the previous sketch plan, pointing out the differences in the revised lot layout.

George Chovancelt, 600 N. 36th Street, Lafayette, IN, Housing Specialist for Area IV Development, stated that the executive director and project manager were both present. He said that he did not have anything to add to the eloquent, detailed report that the staff presented and is available to answer any questions.

The Commission voted by ballot 13 yes – no to recommend approval of **Z-2110—AREA IV DEVELOPMENT, INC. (I3 TO R1U)** to the Lafayette City Council.

2. **Z-2114—DANIEL C. & BETH ANN TERRY (I3 TO R1):** Petitioners are requesting rezoning of a 0.39 acre section of the “flagpole” portion of Lots 1, 2, and 3 of Terry Minor Subdivision, located on the west side of CR 500 E, ½ mile south of McCarty Lane, Fairfield 36 (NE) 23-4.

Karl Rutherford moved to hear and approve the above-described request. David Williams seconded the motion.

Sallie Fahey read the staff report with recommendation of approval. She read the following letter with an attached survey, into the record:

Joseph F. Duerr, RAAM 10900 Wilshire Boulevard, Suite 1100, Los Angeles, CA, representing Patricia Ayres Gallucci, in opposition of the petition.

She presented slides of the zoning map, aerial photo, and sketch plan. She explained that even though the driveway encroaches on the neighbor's property there is plenty of room for a new common access driveway to serve those lots. She informed the Commission that this request would not rezone the neighbor's property, only that the driveway encroaches on it.

Dan Teder, PO Box 280, Lafayette, IN, representing the petitioner, stated that Dan Terry was present and available to answer any questions. He informed the Commission that the petitioner is intending to move the driveway, so that will not be an issue. He concurred with the staff report and asked for approval

The Commission voted by ballot 13 yes – 0 no to recommend approval of **Z-2114—DANIEL C. & BETH ANN TERRY (I3 TO R1)** to the Tippecanoe County Commissioners.

B. SUBDIVISIONS

1. **S-3291—THE ESTATES OF ARBOR CHASE (MAJOR-PRELIMINARY):** Petitioner is seeking primary approval for a 55-lot single-family subdivision on 48.22 acres. The site is located on the north side of Kalberer Road between Salisbury Street and Soldiers Home Road, in the City of West Lafayette, Wabash 5 (NW) 23-4.

Karl Rutherford moved to hear and approve the above-described request. David Williams seconded the motion.

Sallie Fahey read the staff report with recommendation of conditional primary approval contingent on the following conditions:

A. Variances

1. A variance to reduce the required pavement width for all internal streets from 30-ft. to 28-ft. (measured from back of curb to back of curb).

B. Conditions

1. Street names approved by the Post Office and 911 shall be included in the construction plans and final plat.

CONSTRUCTION PLANS – The following items shall be part of the Construction Plans application and approval:

2. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall

be approved by the Tippecanoe County Soil and Water Conservation District and meeting the requirements of the County Drainage Board as required by Tippecanoe County Ordinance #93-18-CM.

3. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

4. Except for the approved entrance, a "No Vehicular Access" statement shall be platted along the Kalberer Road right-of-way line.
5. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
6. Surety for future construction of the west end of Street "B" shall be provided as discussed in the Staff Report.
7. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
8. All required building setbacks shall be platted.
9. The West Lafayette corporation line shall be labeled.
10. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

11. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.
12. The purpose, ownership and maintenance of all outlots shall be specified.

Sallie Fahey presented slides of the zoning map, aerial photo and sketch plan.

Joseph T. Bumbleburg stated that he represented the petitioner, who is also present and available to answer any questions. He stated that the 55 lots would be single-family units. He mentioned that over the past month this general area has been presented as part of the petitioner's plans. He presented a poster board of the large-scale project. He mentioned that there would be a blend of products and of lot sizes in this development. He mentioned that there are three issues, approval of the plat, the right to bond and a variance regarding the width of the road. He pointed out that in this area the ordinance calls for a prescribed amount of land for the road. He stated that land is there and will stay there in case it is ever needed by the municipality. He stated that as required, this has gone before the West Lafayette Board of Works, and they have approved it. He said that the conditions are standard, acceptable, and feasible. He asked for approval of the plat, variance and right to bond.

Donna Majewski, 3500 Hamilton Street, West Lafayette, IN, stated that her only concern was the narrowing of the streets. She pointed out that in her subdivision they have wider streets and during the winter months, especially when there is excess snow like this year, the snow plow can not get very close because of the mail boxes. She said that because there is not alternate side street parking, cars are often on both sides of the street. She mentioned that it is difficult for school buses and larger vehicles to get down the road. She cautioned against the ability for the school buses to get through the cars and snow banks.

Joseph T. Bumbleburg declined rebuttal.

Steve Schreckengast asked for confirmation that the West Lafayette Board of Work has approved this.

Jack Rhoda stated that they did approve the variance.

Jan Mills stated that the Board of Works did approve this because there is considerable data that shows narrower streets in residential areas slow down traffic. She informed the Commission that the Street Commissioner, Dave Downey, was present at the Board of Works meeting and testified that it is easier for snowplows to clean the streets when they are narrow.

The Commission voted by ballot 13 yes – 0 no to recommend conditional approval of **S-3291—THE ESTATES OF ARBOR CHASE (MAJOR-PRELIMINARY).**

The commission voted by ballot 13 yes to 0 no to permit bonding.

The commission voted by ballot 13 yes to 0 no to approve the variance.

V. ADMINISTRATIVE MATTERS

Sallie Fahey asked the Commission if it was acceptable to keep the font size of the minutes smaller, in order to save on postage and paper. Jack Rhoda asked the Commissioners to give Sallie Fahey their opinion before they left this evening.

He congratulated Jay Seeger as the new legal counsel.

Jay Seeger, PO Box 878, 106 N 9th Street, Lafayette, IN 47902, stated that he appreciated the opportunity to represent the Commission. He said that he looked forward to working with all of them and doing the best job that he can. He reiterated that he appreciated the opportunity. He stated that he hoped the trust they have given him would be well placed.

VI. APPROVAL OF THE APRIL 2003 EXECUTIVE COMMITTEE AGENDA

Karl Rutherford moved that the following subdivision petitions be placed on the April 2, 2003 Executive Committee Agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

RE-0007-HAGGERTY HOLLOW SUBDIVISION (RURAL ESTATE-PRELIMINARY PLAT)

RE-0008-MEADOWGATE ESTATES SUBDIVISION (RURAL ESTATE-PRELIMINARY PLAT)

S-3290-RED HAWK RIDGE SUBDIVISION (MINOR-SKETCH)

S-3293-TIPPE POINTE SUBDIVISION (MINOR-SKETCH)

S-3294-SHORT SUBDIVISION (MINOR-SKETCH)

David Williams seconded and the motion carried by voice vote.

VII. DETERMINATION OF VARIANCES -- Area Board of Zoning Appeals

Karl Rutherford moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variance, prohibited from consideration by ordinance and statute:

BZA 1632 – JAY JOLLEY/SIGNMAN

David Williams seconded and the motion carried by voice vote.

VIII. DIRECTOR'S REPORT

None

IX. CITIZENS' COMMENTS AND GRIEVANCES

None

X. ADJOURNMENT

Karl Rutherford moved for adjournment. David Williams seconded and the motion carried by voice vote.

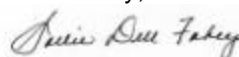
The meeting was adjourned at 7:50 P.M.

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



Sallie Dell Fahey

Assistant Director